



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
Washington, D.C. 20231
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/487,027	01/19/2000	Paul E. Di Mario	5333USA	2627

7590

12/01/2001

John A O'Toole Esq
General Mills
Post Office Box 1113
Minneapolis, MN 55440

EXAMINER

HARMON, CHRISTOPHER R

ART UNIT

PAPER NUMBER

3721

DATE MAILED: 12/01/2001

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/487,027

Applicant(s)

DI MARIO ET AL.

Examiner

Christopher R Harmon

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-37 is/are pending in the application.
- 4a) Of the above claim(s) 10-34 and 37 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9, 35 and 36 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Group I in Paper No. 5 is acknowledged.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-5 and 35-36 are rejected under 35 U.S.C. 102(b) as being anticipated by Barbulesco et al. (US 5,115,625).

Barbulesco et al. disclose an apparatus and method for packing objects in boxes comprising case magazine 20; controller 70; suction cup 21 for engaging a folded box blank 23; box erecting members 26-28; elevator 30 which loads product 10 into the erected box 23b from below (see figure 2). After the flaps of a box are folded about a product 10 the flaps are then sealed by either glue or pressure sensitive tape (see column 8, lines 19-22) at step 5 of figure 2 of the box erecting/loading apparatus. Elevator 30 accepts product 10 at a loading/conveying plane below that of the box erector, which then simultaneously loads the product 10 into opened bottom box 23 in accordance with box erecting members 26-28 before being moved together; see column 9, line 22 - column 10, line 7. The box 23 with product 10

Art Unit: 3721

inserted is then transferred along conveying surface 56 which cooperates with both major and minor flap folding devices 44, 50, 51, 60, 61, etc. to effectively fold four upper and four lower flaps; see figure 1. Once the at least one good is placed in the box the position is substantially the same, that is – inside the box, nor does it move vertically.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 6-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barbulesco et al. (US 5,115,625) in view of Reinfeld et al. (US 4,550,549).

Barbulesco et al. do not specifically disclose a labeling apparatus operatively connected to the finishing apparatus. Reinfeld et al. teach a labeling apparatus in the apparatus and method of packing articles operating on completed containers 52 along discharge conveyor 80; see figure 14, column 5, lines 52-56. It would have been obvious of one of ordinary skill in the art to include the use of a labeling apparatus as taught by Reinfeld et al. in the invention of Barbulesco et al. in order to mark a package as desired.

Regarding the limitation of a first feed conveyor of claim 7, Barbulesco et al. disclose a system requiring simultaneous box erection and insertion of product 10 by

elevator 30. Elevator 30 reciprocates between a lower product feed position and a higher box inserting position. Products 10 are supplied to elevator 30 at its lower position by a means not specifically described, however, due to the speed of the fully automated system it is concluded that a conveyor is used to supply the elevator operatively sequenced with box erecting and product elevating operations.

Alternatively, Reinfeld et al. teaches product feed conveyor 41 (figure 17). Thus, it would have been obvious to one of ordinary skill in the art at the time of the invention to use a first product conveyor in the invention of Barbulesco et al. as taught by Reinfeld et al. for transferring the product to an elevator.

Barbulesco et al. disclose the use of a second conveyor 91 defining a plane (along main slide plate 56) to transfer the boxes 23 through a sealing station 5; see figures 2, 6, and 13.

Response to Arguments

6. Applicant's arguments filed 11/7/01 have been fully considered but they are not persuasive. The position of the at least one good does not change relative to the box nor vertically (see above).

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Dillon et al. '836, Sabel '377, and Focke et al. '421 all teach similar box erecting and bottom loading processing.

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher R Harmon whose telephone number is 703-308-8643. The examiner can normally be reached on Monday-Thursday from 8-6.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada can be reached on 703-308-2187. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Application/Control Number: 09/487,027
Art Unit: 3721

Page 6

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1148.

ch
November 23, 2001

A handwritten signature in black ink, appearing to read 'Rinaldi I. Rada', with a long horizontal flourish extending to the right.

Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700